

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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U.S. BANK TRUST, N.A., AS TRUSTEE FOR  
LSF9 MASTER PARTICIPATION TRUST,

Plaintiff,

v.

GLORIA TONEY, ALONZO WINGATE,  
NEW YORK CITY ENVIRONMENTAL  
CONTROL BOARD, and NEW YORK CITY  
PARKING VIOLATIONS BUREAU,

Defendants.

**MEMORANDUM & ORDER**  
17-CV-5516 (MKB) (RLM)

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MARGO K. BRODIE, United States District Judge:

Plaintiff U.S. Bank Trust, N.A. commenced the above-captioned mortgage foreclosure action on September 20, 2017, against Defendants Gloria Toney, Alonzo Wingate, New York City Environmental Control Board, and the New York City Parking Violations Bureau, pursuant to New York Real Property Actions and Proceedings Law, N.Y. Real Prop. Acts. Law §§ 1301 *et seq.* (“RPAPL”). (Compl., Docket Entry No. 1.) The Clerk of Court noted entry of default as to all Defendants on November 13, 2017. (Clerk’s Entry of Default, Docket Entry No. 9.) On January 9, 2018, Plaintiff moved for default judgment, computation of damages, judgment of foreclosure and sale, and the appointment of Stephanie S. Holdstone, Esq. as referee to sell the subject property located at 148-42 Huxley Street, Rosedale, New York 11422 (the “Property”). (Pl. Mot. for Default J., Docket Entry No. 10.) On January 10, 2018, the Court referred the motion to Chief Magistrate Judge Roanne L. Mann for a report and recommendation. (Order dated Jan. 10, 2018.)

By report and recommendation dated July 13, 2018 (the “R&R”), Judge Mann

recommended that the Court enter default judgment against Defendants, and award Plaintiff damages against Defendants Toney and Wingate in the amount of \$636,524.96 plus \$59.42 for each day from March 24, 2018 until judgment is entered. (R&R 14–15, Docket Entry No. 19.) Judge Mann also recommended that the Court order the foreclosure and sale of the Property, and appoint Stephanie S. Holdstone, Esq., as referee. (*Id.* at 15.) No party has objected to the R&R.

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s report and recommendation if the party fails to file timely objections designating the particular issue.” (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court grants Plaintiff’s motion and enters default judgment against Defendants, awards Plaintiff damages against Defendants Toney and Wingate in the amount of \$636,524.96 plus \$59.42 for each day from March 24, 2018 until judgment is entered. The Court also orders foreclosure and sale of the Property, and

appoints Stephanie S. Holdstone, Esq., as referee.

SO ORDERED:

s/ MKB

MARGO K. BRODIE  
United States District Judge

Dated: August 15, 2018  
Brooklyn, New York